

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20442 of 2014

Arising Out of PS.Case No. -198 Year- 2011 Thana -SAKRI District- MADHUBANI

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Birendra Kumar Santoriya @ Birendra Santoriya

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vaidehi Raman Prasad Singh

For the Opposite Party/s : Mr. Uma Nath Mishra (App)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

3 04-08-2017 Heard learned counsel for the petitioner and the State.

Vide order dated 23.06.2017 in this case, carbon copy of the case diary and supervision note was called for.

Learned counsel for the State on scrutiny of the case diary submits that there is no specific material as to the black marketing by the petitioner. In the order dated 23.6.2017, this court has noted submission of the petitioner that since 2002 there is free trade of wheat and rice and as such there is no question of violation of Section 7 of the Essential Commodities Act. There is no material on record and even in the case diary to indicate violation of any specific licensing order and attracting the offence under section 7 of the Essential Commodities Act.

The suspicious circumstances which led to the filing of the First Information Report by the Circle Officer in the



absence of specific material as to the black marketing or breach of provisions under the Essential Commodities Act, the petitioner cannot be fasten with any criminal liability.

In the peculiar facts and circumstances, the petitioner cannot be subject to ordeal of trial in the absence of specific commission or omission which constitutes the offence. The trade of wheat and rice is free since 2002 and as such the case registered on the allegation of black marketing of wheat is unsustainable in law.

In the totality of the fact situation, the court is satisfied that the petitioner has been able to make out a case for indulgence.

Accordingly, the order taking cognizance dated 05.12.2013 in T.R. No. 4777 of 2013 arising out of Sakari P.S. Case No. 198 of 2011 pending in the court of learned Chief Judicial Magistrate, Madhubani is quashed.

The application is accordingly allowed.

(Anil Kumar Upadhyay, J)

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